

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

ANTHONY A. ISAACKS,

Plaintiff,

v.

SGT THOMAS ORTH,

Defendant.

NO: CV-11-274-CI

ORDER ADOPTING REPORT AND
RECOMMENDATION AND
DISMISSING COMPLAINT
WITHOUT PREJUDICE

1915(g)

Magistrate Judge Imbrogno filed a Report and Recommendation on November 16, 2011, recommending Mr. Isaacks's civil rights complaint be dismissed without prejudice for failure to state a claim upon which relief may be granted. Plaintiff had asserted a single incident of mail rejection for which he received notice. He presented no facts from which the Court could plausibly infer a constitutional violation. *See Procunier v. Martinez*, 416 U.S. 396, 418-19(1974), *overruled on other grounds, Thornburgh v. Abbott*, 490 U.S. 401 (1989).

Although granted the opportunity to amend his complaint to state a cognizable claim, Plaintiff has filed nothing further in this action. There being no

1 objections, the court **ADOPTS** the Report and Recommendation. The complaint,
2 ECF No. 7, is **DISMISSED WITHOUT PREJUDICE** under 28 U.S.C. §§
3 1915(e)(2) and 1915A(b)(1).

4 Pursuant to 28 U.S.C. § 1915(g), enacted April 26, 1996, a prisoner who
5 brings three or more civil actions or appeals which are dismissed as frivolous or for
6 failure to state a claim will be precluded from bringing any other civil action or
7 appeal *in forma pauperis* “unless the prisoner is under imminent danger of serious
8 physical injury.” 28 U.S.C. § 1915(g). **Plaintiff is advised to read the statutory**
9 **provisions under 28 U.S.C. § 1915. This dismissal of Plaintiff's complaint may**
10 **count as one of the three dismissals allowed by 28 U.S.C. § 1915(g) and may**
11 **adversely affect his ability to file future claims.**

12 **IT IS SO ORDERED.** The District Court Executive is directed to enter this
13 Order, enter judgment, forward copies to Plaintiff at his last known address, and
14 close the file. The District Court Executive is further directed to forward a copy of
15 this Order to the Office of the Attorney General of Washington, Criminal Justice
16 Division. The Court certifies any appeal of this dismissal would not be taken in
17 good faith.

18 **DATED** this 6th day of December 2011.

19
20 s/ Rosanna Malouf Peterson
ROSANNA MALOUF PETERSON
Chief United States District Court Judge